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July 22, 2008

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**VIA E-FILING AND HAND DELIVERY**

Magistrate Judge Bernard Zimmerman  
United States District Court,  
Northern District of California  
450 Golden Gate Avenue,  
Courtroom G, 15th Floor  
San Francisco, California 94102

Re: *SuccessFactors, Inc. v. Softscape, Inc.*, Case No. C-08-1376 CW (BZ)

Dear Judge Zimmerman:

We respectfully submit this letter on behalf of both parties in connection with the Court's July 7, 2008 Third Discovery Order and July 21, 2008 Order Regarding Discovery Referee. The orders state that the parties must agree on a discovery referee or each party must submit a list of five available discovery referees without conflict by July 22, 2008.

The following is a list of individuals proposed by my client, plaintiff SuccessFactors, Inc., who have stated that they have no conflicts and are available to serve.<sup>1</sup>

1. James N. Roethe, Esq. (Full time neutral, AAA)
2. Lester J. Levy, Esq. (Full time neutral, JAMS)
3. Thomas H.R. Denver, Esq. (Full time neutral, Mediation Masters)
4. Richard J. Collier, Esq. (Cooper White & Cooper, AAA)

SuccessFactors believes that a full time neutral may be most appropriate for this case given the extent of the parties' apparent disagreements and the time sensitivity of some issues.

Softscape's counsel has emailed me, and at their request, I am also providing the Court with the name of Softscape's proposed discovery referee, who has informed them that he has no conflicts:

1. Jack Russo, Esq. (Russo & Hale, AAA)

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<sup>1</sup> On July 21, 2008, SuccessFactors learned that its fifth candidate had learned of inability to serve as a discovery referee due to a conflict. SuccessFactors will identify another potential referee in the event that the Court so directs.

Magistrate Judge Bernard Zimmerman

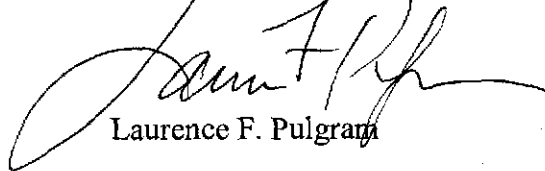
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For the Court's convenience, I have attached a very short squib on each of these individuals from their websites, along with their contact information should the Court wish to contact them directly.

Please let us know if you have any questions or concerns, and thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Laurence F. Pulgram', is written over the typed name. The signature is fluid and cursive, with a large initial 'L' and 'P'.

Laurence F. Pulgram

cc: Robert Taylor, Esq.

LFP/mak

## Appendix

1. James N. Roethe, Esq.  
J. Roethe ADR Services  
36 Fallen Leaf Terrace  
Orinda, California 94563  
Tel.: (925) 254-2190  
Fax: (925) 253-1456

Mr. Roethe is a neutral at the American Arbitration Association. He has previously worked as a litigation partner at Pillsbury Winthrop Shaw Pittman LLP ("Pillsbury"), specializing in arbitration and complex business and commercial litigation. Between 1992 and 2000, following 22 years of private practice, he served as head of litigation and later as Executive Vice President and General Counsel of BankAmerica Corp. and Bank of America.

2. Lester J. Levy, Esq.  
JAMS  
2 Embarcadero Center, Suite 1500  
San Francisco, California 94111  
Tel.: (415) 982-5267  
Fax: (415) 982-5287

Mr. Levy has been a full-time ADR professional since 1994, handling more than 1,000 cases. As a discovery referee and special master, Mr. Levy has supervised the creation and implementation of discovery plans, refereed depositions to ensure efficient examination of witnesses, and held prompt telephonic hearings to resolve discovery disputes. He has decided numerous discovery motions, including motions to compel deposition testimony and responses to written discovery requests, and a motion seeking the return of allegedly privileged documents under the work product doctrine and attorney-client privilege.

3. Thomas H.R. Denver, Esq.  
Mediation Masters  
96 North Third Street, Suite 300  
San Jose, California 95112  
Tel.: (408) 280-7883  
Fax: (408) 292-7868

Mr. Denver has been in practice since 1973 and is a founding member of Mediation Masters. He has served as a special master or discovery referee in more than 20 cases, a mediator in more than 200 cases, and an arbitrator in more than 500 cases. He has served as a Judge *Pro Tempore* for both federal and state courts, and as a Settlement Judge *Pro Tempore* for the Santa Clara County Superior Court for more than 15 years. He has over 25 years of experience handling complex litigation and has tried more than 50 jury matters.

4. Richard J. Collier, Esq.  
Cooper, White & Cooper LLP  
201 California Street, 17th Floor  
San Francisco, California 94111  
Tel.: (415) 433-1900  
Fax: (415) 433-5530

Mr. Collier is a partner at Cooper, White & Cooper LLP. In more than twenty-five years as a trial lawyer, Mr. Collier has concentrated on cases involving, among other things, unfair competition and trade secrets. Mr. Collier is an experienced mediator and arbitrator who serves on the panels of neutrals with the United States District Court for the Northern District of California, the First District Court of Appeal, Bay Area Superior Courts, and the American Arbitration Association.

5. Jack Russo, Esq.  
Russo & Hale LLP  
401 Florence Street  
Palo Alto, California 94301  
Tel.: (650) 327-9800  
Fax: (650) 327-3737

Mr. Russo specializes in Internet, computer law, and intellectual property litigation. Mr. Russo is a frequent speaker on computer law issues and has given presentations to the American Bar Association, the Practicing Law Institute, the Computer Law Association, and the San Francisco Bay Area Intellectual Property American Inn of Court. Mr. Russo serves as an arbitrator, mediator, and early neutral evaluator for the U.S. District Court (N.D. California), the Santa Clara County Superior Court, and the American Arbitration Association, as well as a Judge *Pro Tempore* of the Santa Clara County Superior Court.